



State of Utah

Department of Natural Resources

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas & Mining

JOHN R. BAZA
Division Director

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

December 6, 2005

CERTIFIED RETURN RECEIPT
7002 0510 0003 8603 2656

Barry Peterson
Gold Star Stone
160 East Cottonwood
Box 62
Oakley, Idaho 83346

Subject: Proposed Assessment for State Cessation Order No. MC-05-01-17(1),
Gold Star Stone/Barry Peterson, Lone Pine Quarry, M/003/050, Box
Elder County, Utah

Dear Mr. Peterson:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced Cessation Order (CO). The CO was issued by Division Inspector, Lynn Kunzler, on November 7, 2005.

Rule R647-7-103 et. seq. has been utilized to formulate the proposed penalty for the violations as follows:

- Violation 1 of 1 \$2,310

The enclosed worksheet specifically outlines how the violation was assessed.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this Cessation Order has been considered in determining the facts surrounding the violation and the amount of penalty. If the violation has not been abated at the time of the proposed assessment, the assignment of good faith points cannot be made. If you feel that you are eligible for good faith, you should supply relevant information to the

Barry Peterson
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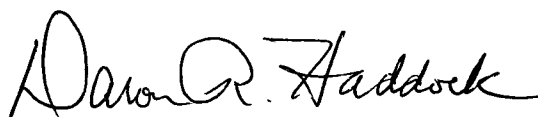
assessment officer within 15 days of the violation abatement date so that it can be factored into the final assessment.

Under R647-7-106, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this CO, you should file a written request for an Informal Conference within thirty (30) days. This conference will be conducted by the Division Director or Associate Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the assessment conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of the violation will stand, the proposed penalty will become final, and the penalty will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,



Daron R. Haddock
Assessment Officer

DRH:jb
Enclosure: worksheet
cc: Vicki Bailey, Accounting
Vickie Southwick, Exec. Sec.
O:\M003-BOXELDER\M0030050-LONEPINE\NON-COMPLIANCE\PROASSESSMC-05-01-17.DOC

Is this an EVENT (A) or Administrative (B) violation? Event
(assign points according to A or B)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event, which the violated standard was designed to prevent?
2. What is the probability of the occurrence of the event, which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

*** *The operator has been conducting mining operations outside the area that was permitted. A new road was constructed and the disturbed area expanded without first having a permit modification approved. While the Operator had submitted an amendment to add additional acreage, this area of expansion was not included as part of the amendment. Disturbance has actually occurred.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

*** *The inspector stated that an additional 2.75 acres of land outside of the approved mining area has been disturbed. Mining is being conducted in accordance with the existing notice of intent, but not in an area where they are authorized to mine. Disturbance is typical of mining*

activities with soil and vegetation being impacted. Further discussion with the inspector revealed that the damage is probably temporary. While much of the soil and vegetation have been disturbed, the site could still be reclaimed. While the damage is extensive over the 2.75 acres, it probably does not leave the site. Damage is assessed in the lower 1/3 of the range.

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? _____
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 28

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

******* *The inspector indicated that the operator thought that since he had submitted an amendment for a 2- acre additional area, it would be okay if he didn't operate exactly where the amended area was located. He thought this new area was a better location to begin mining rather than the area indicated in the amendment. This indicates an indifference to DOGM regulations or lack of reasonable care. A prudent operator would understand the need to secure approval prior to disturbing an area and keeping any disturbance within the site approved in the Notice of Intent. Even though he had applied for an amendment, the Operator was negligent in getting an approved NOI, for two reasons: 1) the area included in the amendment did not include the area disturbed, 2) the amendment had not been finally approved and he shouldn't have been operating in a new area anyway. The indifference to DOGM regulation indicates ordinary negligence, thus the assignment of points in the middle part of the negligence range.*

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

- Immediate Compliance -11 to -20*
(Immediately following the issuance of the NOV)
- Rapid Compliance -1 to -10
(Permittee used diligence to abate the violation)
- Normal Compliance 0
(Operator complied within the abatement period required)
(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)

*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- Rapid Compliance -11 to -20*
(Permittee used diligence to abate the violation)
- Normal Compliance -1 to -10*
(Operator complied within the abatement period required)
- Extended Compliance 0
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? difficult (requires the submission of plans)

ASSIGN GOOD FAITH POINTS _____

PROVIDE AN EXPLANATION OF POINTS:

*** *The abatement has not yet been completed, so good faith points cannot be awarded at this time. This category will be looked at again after the abatement has been completed. Points will be awarded depending on how quickly the abatement is met.*

V. ASSESSMENT SUMMARY (R647-7-103.3)

NOTICE OF VIOLATION # <u>MC-05-01-17(1)</u>	
I. TOTAL HISTORY POINTS	<u>5</u>
II. TOTAL SERIOUSNESS POINTS	<u>28</u>
III. TOTAL NEGLIGENCE POINTS	<u>8</u>
IV. TOTAL GOOD FAITH POINTS	<u> </u>
TOTAL ASSESSED POINTS	<u>41</u>
 TOTAL ASSESSED FINE	 <u>\$ 2,310</u>